

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

MANUEL OLIVERA PAGÁN, et als.

Plaintiffs

v.

MANATÍ MEDICAL CENTER, INC., et als.

Defendants

CIVIL NO.: 14-1553 (FAB)

MOTION REQUESTING PARTIAL RECONSIDERATION

TO THE HONORABLE COURT:

COME NOW plaintiffs, through their undersigned counsel, and very respectfully state and pray as follows:

1. On November 21, 2014 this Honorable Court entered an Order (Docket No. 17) granting plaintiffs' Notice of Voluntary Dismissal (Docket No. 16). The Order further stated the following:

"Plaintiffs' claims against Dr. Hernán Fuentes-Figueroa and Ciales Primary Health Services, Inc. are DISMISSED, with prejudice. Plaintiffs' claims against Manatí Medical Center, Inc. are DISMISSED, without prejudice. Judgment shall be entered accordingly."

2. Judgment in accordance with the aforesaid Order was filed on November 24, 2014 and entered on November 25, 2014. (Docket No. 18)

3. Plaintiffs hereby respectfully request this Honorable Court to reconsider in part its Order and Judgment (Docket Nos. 17 and 18), only with regard to the dismissal with prejudice of all claims against Dr. Hernán Fuentes-Figueroa.

4. Concerning Dr. Fuentes, plaintiffs' Notice of Voluntary Dismissal requested that claims against Dr. Fuentes for his acts or omissions at Ciales Primary Health Services, Inc. (a federally protected facility) be dismissed with prejudice.

5. However, plaintiffs' Notice of Voluntary Dismissal clearly specified that claims against Dr. Fuentes for his acts or omissions at Manatí Medical Center, Inc. (a facility that is not protected under the Federal Tort Claims Act) be dismissed "without prejudice." (See paragraphs 3, 5 and the prayer of plaintiffs' Notice of Voluntary Dismissal.)

6. Dr. Fuentes treated minor plaintiff JODJ and his mother Daisy De Jesús Miranda both at Ciales Primary Health Care Services, Inc. as well as at Manatí Medical Center, Inc. While Dr. Fuentes is protected under the Federal Tort Claims Act for his acts or omissions at Ciales Primary Health Services, Inc. he is not protected for his acts or omissions at Manatí Medical Center, Inc.

7. The aforesaid distinction is critical, inasmuch as plaintiffs have a right and intend to pursue their claims in state court both against Manatí Medical Center, Inc. and against Dr. Fuentes for his acts or omissions in the treatment provided by him to minor plaintiff and his mother at Manatí Medical Center, Inc.

WHEREFORE, plaintiffs respectfully request that this Honorable Court's Order and Judgment (Docket Nos. 17 and 18) be amended to reflect that the claims against Dr. Hernán Fuentes Figueroa for his acts or omissions in the treatment provided by him to minor plaintiff JODJ and his mother at the facilities of Manatí Medical Center, Inc. be dismissed without prejudice, as was requested in plaintiffs' Notice of Voluntary Dismissal (Docket No. 16).

I HEREBY CERTIFY that on this same date we electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all attorneys of record.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 2nd day of December, 2014.

s/Alejandro J. Fernández Muzaurieta
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